

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3997

To amend the Endangered Species Act of 1973 to require the preparation of economic impact analyses with respect to certain actions to protect endangered species and threatened species, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1994

Mr. DOOLITTLE introduced the following bill; which was referred to the  
Committee on Merchant Marine and Fisheries

---

## A BILL

To amend the Endangered Species Act of 1973 to require the preparation of economic impact analyses with respect to certain actions to protect endangered species and threatened species, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Balanced Economic  
5       and Environmental Priorities Act of 1994”.

1 **SEC. 2. ECONOMIC IMPACT ANALYSES.**

2 Section 4 of the Endangered Species Act of 1973 (16  
3 U.S.C. 1533) is amended by adding at the end the  
4 following:

5 “(j) ECONOMIC IMPACT ANALYSIS.—(1)(A) Notwith-  
6 standing any other provision of this Act, an officer or em-  
7 ployee of a Federal agency shall not implement or enforce  
8 a designation, regulation, or recovery plan described in  
9 subparagraph (B) unless—

10 “(i) the Secretary has prepared an economic  
11 impact analysis under this subsection with respect to  
12 the designation, regulation, or recovery plan;

13 “(ii) the Secretary determines, based on that  
14 analysis, that the benefits of that designation, regu-  
15 lation, or recovery plan outweigh the costs of that  
16 act; and

17 “(iii) the Secretary has published an economic  
18 impact statement describing the findings of that  
19 analysis.

20 “(B) The designation, regulations, and recovery plans  
21 referred to in subparagraph (A) are the following:

22 “(i) A designation of critical habitat under sub-  
23 section (a)(2).

24 “(ii) A protective regulation issued under sub-  
25 section (d).

1           “(iii) A recovery plan developed under sub-  
2           section (f).

3           “(2)(A) The Secretary shall perform an economic im-  
4           pact analysis in accordance with this paragraph with re-  
5           spect to each designation, regulation, and recovery plan  
6           described in paragraph (1)(B).

7           “(B) An economic impact analysis under this para-  
8           graph shall include determination of the following:

9           “(i) The economic consequences of implement-  
10          ing and enforcing the designation, regulation, or re-  
11          covery plan, including the aggregate statistical data  
12          which indicates—

13               “(I) identifiable and potential job losses or  
14               diminishments resulting from that implementa-  
15               tion and enforcement,

16               “(II) identifiable losses or diminishments  
17               in the value of real property resulting from that  
18               implementation and enforcement, and

19               “(III) losses or diminishments in the value  
20               of business enterprises resulting from that im-  
21               plementation and enforcement.

22           “(ii) The effect that implementing and enforc-  
23           ing the designation, regulation, or recovery plan will  
24           have on tax revenues received by the Federal Gov-  
25           ernment or by State and local governments, includ-

1       ing any revenue losses attributable to losses or  
2       diminishments in value described in clause (i).

3               “(iii) The effect that implementing and enforc-  
4       ing the designation, regulation, or recovery plan will  
5       have on outlays by Federal, State, and local govern-  
6       ments, including—

7                       “(I) effects on payments made pursuant to  
8       subsection (l), and

9                       “(II) effects on expenditures required for  
10       unemployment compensation, aid to families  
11       with dependent children under part A of title  
12       IV of the Social Security Act, medicaid under  
13       title XIX of the Social Security Act, and other  
14       Federal, State, and local government programs.

15               “(iv) The effect that implementing and enforc-  
16       ing the designation, regulation, or recovery plan will  
17       have on the competitive position of any individual  
18       business enterprise or aggregate industry affected by  
19       that action, determined jointly with the Secretary of  
20       Commerce.

21               “(v) The ecological and economic impacts of the  
22       extinction of any species that implementation and  
23       enforcement is intended to prevent.

1           “(vi) Any other potential economic, budgetary,  
2           or ecological effects that the Secretary considers  
3           appropriate.

4           “(3) The Secretary shall determine, based on the  
5           analysis performed under paragraph (2), whether the costs  
6           of implementing and enforcing a designation, regulation,  
7           or recovery plan described in paragraph (1)(B) outweigh  
8           the benefits of that implementation and enforcement.”.

9   **SEC. 3. LIMITATION OF ECONOMIC LOSSES CAUSED BY**  
10                   **LISTING SPECIES AS ENDANGERED SPECIES**  
11                   **OR THREATENED SPECIES; COMPENSATION.**

12           Section 4 of the Endangered Species Act of 1973 (16  
13   U.S.C. 1533), as amended by section 2, is amended by  
14   adding at the end the following:

15           “(k) LIMITATION OF LOSSES CAUSED BY LISTING  
16   SPECIES AS ENDANGERED SPECIES OR THREATENED  
17   SPECIES.—In implementing this Act with respect to an  
18   endangered species or threatened species included in a list  
19   published under subsection (c), the Secretary shall limit  
20   economic losses incurred by persons as a result of that  
21   implementation.

22           “(l)    COMPENSATION    FOR    LOSSES    AND  
23   DIMINISHMENTS IN VALUE.—(1) The Secretary shall pay  
24   to any person who incurs an economic loss as a result of  
25   a species being included in a list of endangered species

1 or threatened species published under this section the  
2 amount of that loss, including—

3 “(A) any diminishment in the value of tangible  
4 or intangible property, and

5 “(B) any loss resulting from the loss or dimin-  
6 ishment of a job.

7 “(2) The Secretary shall issue regulations establish-  
8 ing procedures for obtaining payments under this sub-  
9 section.

10 “(3) A person may not recover any amount under this  
11 subsection for any de minimis or wholly speculative loss.

12 “(4) Any denial by the Secretary of an application  
13 for payment under this subsection may be appealed in the  
14 appropriate Federal district court of the United States,  
15 including any determination by the Secretary that a per-  
16 son is ineligible for payment by reason of paragraph (3).

17 “(5) A person (including any State or local govern-  
18 mental entity) may intervene in any proceeding under this  
19 subsection for the purpose of assisting the Secretary in  
20 issuing payments under this subsection.”.

21 **SEC. 4. CONGRESSIONAL APPROVAL REQUIRED FOR ADDI-**  
22 **TIONS TO ENDANGERED SPECIES LIST.**

23 (a) APPROVAL REQUIREMENT.—Section 4(c) of the  
24 Endangered Species Act of 1973 (16 U.S.C. 1533(c)) is  
25 amended by adding at the end the following:

1           “(3) CONGRESSIONAL APPROVAL REQUIRED.—  
2       An addition of a species to the list of threatened or  
3       endangered species that is maintained under this  
4       subsection shall not be effective before the date of  
5       the enactment of an Act of Congress that approves  
6       that addition.”.

7       (b) APPLICATION.—The amendment made by sub-  
8       section (a) shall apply to additions after the date of the  
9       enactment of this Act to the list of threatened or endan-  
10      gered species.

11   **SEC. 5. IMPLEMENTATION.**

12       (a) EFFECTIVE DATE.—The amendments made by  
13       sections 2 and 3 shall be effective January 1, 1986.

14       (b) REVIEW OF PRIOR LISTINGS.—Not later than 1  
15       year after the date of the enactment of this Act, the Sec-  
16       retary of the Interior shall—

17           (1) review each addition on or after January 1,  
18           1986, of a species to a list of endangered species or  
19           threatened species published under section 4 of the  
20           Endangered Species Act of 1973 (16 U.S.C. 1533);

21           (2) prepare with respect to each species so  
22           added an economic impact analysis and economic  
23           impact statement in accordance with the amend-  
24           ments made by this Act; and

1           (3) publish a list of all designations of critical  
2       habitat, regulations, and recovery plans in effect on  
3       the date of that publication, the implementation and  
4       enforcement of which is prohibited by the amend-  
5       ments made by this Act.

6       (c) COMPENSATION FOR LOSSES.—A person may not  
7       be paid under section 4(l) of the Endangered Species Act  
8       of 1973, as amended by this Act, for any loss incurred  
9       as a result of a species being added to a list of endangered  
10      species or threatened species published under that Act  
11      during the period beginning January 1, 1986, and ending  
12      on the date of the enactment of this Act, except for losses  
13      incurred as a result of the implementation or enforcement  
14      of designations of critical habitat, regulations, and recov-  
15      ery plans that are not included in the list published under  
16      subsection (b)(3) of this Act.

○